

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA

- v. -

BRYAN DUNCAN,

Defendant.
----- X

PRELIMINARY ORDER OF
FORFEITURE/
MONEY JUDGMENT

S1 18 Cr. 289 (SHS)

WHEREAS, on or about April 8, 2019, BRYAN DUNCAN (the "Defendant"), among others, was charged in a six-count Superseding Indictment, S1 18 Cr. 289 (SHS) (the "Indictment"), with conspiracy to commit mail fraud and wire fraud, in violation of Title 18, United States Code, Sections 1349 (Count One); mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (Count Two); wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Three); conspiracy to commit mail and wire fraud, in violation of Title 18, United States Code, Section 1349 (Count Four); mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (Count Five); and wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Six);

WHEREAS, the Indictment included forfeiture allegations as to Counts One through Six, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from, proceeds traceable to the commission of the offenses charged in Counts One through Six of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the

commission of the offenses charged in Counts One through Six of the Indictment that the Defendant personally obtained;

WHEREAS, on or about May 28, 2019, following a jury trial, the Defendant was found guilty of Counts One, Four, Five, and Six of the Indictment;

WHEREAS, the Government asserts that \$644,056.30 in United States currency, represents the amount of proceeds traceable to the offenses charged in Counts Four, Five, and Six of the Indictment that the Defendant personally obtained for which the Defendant is jointly and severally liable with co-defendant Kerry Gordon to the extent a forfeiture money judgment is entered against Gordon in this case;

WHEREAS, the Government seeks a money judgment in the amount of \$644,056.30 in United States currency pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), representing the amount of proceeds traceable to the offenses charged in Counts Four, Five, and Six of the Indictment that the Defendant personally obtained; and

WHEREAS, the Court finds that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Counts Four, Five, and Six of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. As a result of the offenses charged in Counts Four, Five, and Six of the Indictment for which the Defendant was found guilty, a money judgment in the amount of \$ 644,056 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offenses charged in Counts Four, Five, and Six of the Indictment that the

Defendant personally obtained, shall be entered against the Defendant for which the Defendant is jointly and severally liable with co-defendant Kerry Gordon to the extent a forfeiture money judgment is entered against Gordon in this case.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, BRYAN DUNCAN, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable to the "United States Marshals Service" and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

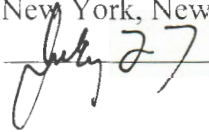
4. The United States Marshals Service or its designee is authorized to deposit the payments on the Money Judgment in the Asset Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture/Money Judgment, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. This Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief, Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One Saint Andrews Plaza, New York, New York 10007.

Dated: New York, New York
 27, 2020

SO ORDERED:


HONORABLE SIDNEY H. STEIN
UNITED STATES DISTRICT JUDGE